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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,823	09/22/2006	Colin Brown	102790-210 (30088 US)	4910
27380 7590 08/29/2008 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022				
EXAMINER CONLEY, SEAN EVERETT				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
08/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/572,823

Applicant(s)

BROWN ET AL.

Examiner

SEAN E. CONLEY

Art Unit

1797

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 8/21/2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-4, 6 and 7.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Sean E Conley/
Primary Examiner, Art Unit 1797

Continuation of 11, does NOT place the application in condition for allowance because: The applicant's arguments have been considered but they are not persuasive.

Regarding the rejection of claims 1-3 and 7 as being anticipated by Dimacopoulos, the applicant argues that the fan of Dimacopoulos is arranged parallel to the surface of the vapor generator, whereas in the applicants claimed invention, the fan is arranged perpendicular to the surface. This argument is not persuasive because it is not commensurate in scope with the claims. Claim 1 only requires a fan arranged perpendicular in the housing, not perpendicular to the surface as argued by the applicant. The fan (20) of Dimacopoulos is arranged perpendicular to the wall of the housing (12). Furthermore, due to the shape of the housing, at least a portion of the air is blown horizontally through the exit port. In addition, the applicant argues that the reference does not have a fan arranged perpendicular in the housing. The examiner respectfully disagrees. As stated above, the fan is arranged perpendicular to at least one wall of the housing. It should be noted that the applicants have failed to claim what element the fan is arranged perpendicular to (i.e. perpendicular relative to what feature of the housing?). As such, the device of Dimacopoulos anticipates the device of claims 1-3 and the method of 7.

Regarding the rejection of claims 4 and 6, the applicant argues that combining the capillary members of Purzycki with Dimacopoulos would not be feasible because the capillary members would not be stable and they would be too long and interfere with the fan blades. The examiner disagrees. The arguments are unsubstantiated and not based on fact. One of ordinary skill in the art would recognize whether or not the capillary members of Purzycki need to be resized or provided with additional support, but only if needed. Furthermore, the applicant argues that even if combined, the combination would not result in the features recited in claim 4. The examiner disagrees. The capillary members of Purzycki contain at least one flat vane and further, the claim does not require the entire capillary member to be a flat vane. At least one vane is perpendicular to the surface in the direction of air flow because at least a portion of the air flow in the device of Dimacopoulos is reflected off from the walls of the housing 12 before exiting, thus resulting in an air flow perpendicular to the flat vanes of the capillary member. The claims do not require that the flat vane be mounted perpendicular to the entire flow of air from the fan. Furthermore, as evidenced by capillary member (3b), the flat vanes are raised on a planar surface (for example, if you cut off the vanes you are left with a planar surface - see figure 1 and figure 3b). Finally, the vanes of the capillary members disclosed by Purzycki are capable of being rotated from a position parallel to the gas flow to a flow blocking position transverse to the flow because, as stated above, at least a portion of the air is reflected off of the walls of the housing 12 prior to exiting in the device of Dimacopoulos. Therefore, the combination is capable of functioning as claimed. Claims 4 and 6 remain rejected over the combination of Dimacopoulos and Purzycki.

SEC